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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,908	10/06/2003	Robert E. Smith III	221-0073US	3821
29855	7590	03/07/2006	<div>EXAMINER</div> <div>BEACH, THOMAS A</div>	
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C. 20333 SH 249 SUITE 600 HOUSTON, TX 77070			<div>ART UNIT</div> <div>3671</div>	<div>PAPER NUMBER</div>

DATE MAILED: 03/07/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/679,908
Filing Date: October 06, 2003
Appellant(s): SMITH, ROBERT E.

Christopher D. Keirs
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/23/05 appealing from the Office action
mailed 06/29/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Patent Smith 5,015,016

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith 5,015,016. Smith shows an undersea hydraulic coupling member having a tail 74 (see figure 3), at least one substantially rigid positioning member 26 associated with the tail, wherein the substantially rigid positioning members are in contact with the inner bore 73 of a manifold plate when the tail is inserted through the manifold plate (unnumbered in figure 1).

As concerns claims 2 & 8, Smith shows the substantially rigid positioning member is an o-ring 26 (figure 3).

As concerns claims 3 & 9, Smith shows the substantially rigid positioning member is elastomeric (col. , lines).

As concerns claim 4, Smith shows a retaining ring to attach the hydraulic coupling member to the manifold plate (figures 1 and 3).

As concerns claim 5, Smith shows the retaining ring is held in place with a snap ring 55 contained in a groove in the tail (figure 3).

As concerns claim 6, Smith shows the tail has at least two grooves for containing the snap ring to accommodate manifold plates of different thicknesses (figure 3).

(10) Response to Argument

Applicant's arguments have been fully considered but they are not persuasive. Applicant's arguments amount to a singular issue of whether element 74 can be considered a tail in light of the specification. Applicant has cited a group of case law in an attempt to draw the complete conclusion that the term can only be that of that specification. Although applicant's arguments that element 74 is not a tail is noted; it remains anticipated as one of ordinary skill in the art can recognize the cylindrical externally extending element 74 meets the definition of a tail in spite of the intended use definition presented in the specification. The structure of a tail is evidenced by this element and whether or not a male member can or cannot have a tail is not conclusionary and thus not fact. The only fact that remains is that the outer wall of the tail-like member 74 is indeed a tail. Therefore, the rejection is maintained and the arguments considered to not being persuasive since no factual evidence to the contrary is supported.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3671

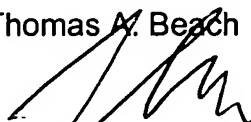
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Thomas A. Beach



Conferees:

Jennifer Gay



Darnell Jayne

